

## NATURAL RESOURCE COMMISSION[571]

### Notice of Intended Action

#### **Proposing rule making related to the application of chemicals to public waters and providing an opportunity for public comment**

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 54, “Restrictions on Introduction and Removal of Plant Life,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 455A.5(6) and chapters 461A and 462A.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 455A, 461A and 462A.

#### *Purpose and Summary*

This proposed rule making would allow cities and counties to apply chemicals to public waters, as defined by rule 571—13.3(455A,461A), for the removal of aquatic plants for navigational and recreational purposes. This application would be subject to a permit issued by the Department of Natural Resources (Department) and a Department-approved vegetation management plan. Currently, only Department staff may apply chemicals for plant control for navigational or recreational purposes. An already-available alternative is for the Department to apply chemicals under an agreement with a city or county. The city or county then reimburses the Department for the cost incurred. If the proposed rule making were implemented, the cost to the Department would be the cost of having existing staff process city and county permit applications. This cost would be much less than the cost if the Department continued to delegate staff to apply chemicals and entered into and managed written agreements with cities and counties.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

#### *Waivers*

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4 p.m. on March 5, 2020. Comments should be directed to:

Joe Larscheid  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319  
Fax: 515.725.8201  
Email: [fisheries@dnr.iowa.gov](mailto:fisheries@dnr.iowa.gov)

### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

March 5, 2020 12 noon to 2 p.m.	Wallace State Office Building Conference Room 4 East Des Moines, Iowa
March 5, 2020 12 noon to 2 p.m.	Cold Springs District Office Conference Room 57744 Lewis Road Lewis, Iowa
March 5, 2020 12 noon to 2 p.m.	Spirit Lake Hatchery Conference Room 122 252nd Avenue Spirit Lake, Iowa
March 5, 2020 12 noon to 2 p.m.	Manchester Hatchery Conference Room 22693 205th Avenue Manchester, Iowa
March 5, 2020 12 noon to 2 p.m.	Lake Darling District Office Conference Room 110 Lake Darling Road Brighton, Iowa

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend subrule 54.5(1) as follows:

**54.5(1) Permits.**

*a.* The department may issue permits for the introduction and removal of aquatic plants in public waters. To be considered for a permit under this rule, applicants shall use the department's application form for sovereign lands construction permits, as described in rule 571—13.9(455A,461A,462A), and shall complete all relevant information on that application form. Applicants shall also provide any additional information as may be necessary, as described in rule 571—13.10(455A,461A). The term of

the permit shall be stated in the permit. Permits are nontransferable and shall be subject to reevaluation upon expiration. Permits may be issued for between one and five years.

*b.* Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule, and ~~rules in~~ 567—Chapter 66; as may be required, for such activities.

*c.* Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation for certain recreation and navigation purposes, including boating, fishing, and swimming. However, such cities and counties shall be required to obtain a permit under this rule, and 567—Chapter 66 as may be required, for such activities. Additionally, all such use of chemicals shall be conducted by a certified aquatic applicator and shall be subject to the terms of a vegetation management plan approved by the director. Issuance of such permits and approval of a vegetation management plan shall be at the sole discretion of the department.